

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



November 20, 2001

CA-14  
12/11/2001**TO: PARTIES OF RECORD IN RULEMAKING 00-10-002**

A draft decision of Commissioner Carl Wood is attached. The decision will be on the Commission's December 11, 2001 meeting agenda. The Commission may act then, or it may postpone action until later.

When the Commission acts on a draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

A shortened comment period for the draft decision is adopted. (Rule 77.7 of the Commission's Rules of Practice and Procedure.) As a result, comments on the draft decision must be filed and served by 5:00 p.m., Wednesday, December 5, 2001. Only limited service of comments is required, as explained in the enclosed instructions on how to file and serve comments. Reply comments may not be filed and served.

Lynn T. Carew, Chief  
Administrative Law Judge

Attachments

LTC:sid

**HOW TO FILE AND SERVE COMMENTS ON THE**  
**DRAFT DECISION OF ASSIGNED COMMISSIONER WOOD**  
**IN RULEMAKING 00-10-002**  
**MODIFYING DECISION 01-09-020 TO ADD ONE CUSTOMER TO CATEGORY M**

**FILING**: Mail or deliver an original plus four copies of your comments to:

California Public Utilities Commission  
Docket Office, Room 2001  
505 Van Ness Avenue  
San Francisco, CA 94102

Your comments (original plus four copies) must be received and accepted in the Docket office on or before the **filing deadline** of 5:00 p.m., December 5, 2001.

**SERVICE**: Copies of comments must also be served (i.e., mailed or delivered) on a limited number of people at the Commission identified below. Service must be performed simultaneously with filing, so that those served will receive your comments at the same time your comments are received in the Docket Office. Filing and service by regular mail, overnight mail, special delivery, or other means, are acceptable as long as the comments are **received** at the Commission by the filing deadline (5:00 p.m. on December 5, 2001). All mailing addresses for limited service at the Commission are: California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102. Parties with electronic mail capability are **also** asked to serve a copy of their comments by e-mail on those with e-mail addresses noted below. The limited list for service, with room addresses and e-mail addresses are:

Commissioner Carl Wood, Room 5200

Administrative Law Judge B. Mattson, Room 5104, e-mail [bwm@cpuc.ca.gov](mailto:bwm@cpuc.ca.gov)

Administrative Law Judge M. Galvin, Room 5015, e-mail [mfg@cpuc.ca.gov](mailto:mfg@cpuc.ca.gov)

Jonathan Lakritz, Room 5202, e-mail [jol@cpuc.ca.gov](mailto:jol@cpuc.ca.gov)

Laura Martin, Room 4-A, e-mail [lra@cpuc.ca.gov](mailto:lra@cpuc.ca.gov)

All copies must have Certificate of Service attached. The original filed with Docket Office must have both a Certificate of Service, and a list of those whom you served.

**SAMPLE FORMAT:** A sample is provided at the end of this document.

**CONTENT:** Comments must focus on factual, legal or technical errors in the draft decision. (Rule 77.3 of the Commission's Rules of Practice and Procedure.) Comments which reargue positions already taken in the proceeding (e.g., in applications for Category M status) will be given no weight, and are not to be filed. Comments shall not include new factual information not already stated in the record (e.g., shall not state facts not already in applications for Category M status). (Rule 77.3.) Comments proposing specific changes shall include supporting findings of fact and conclusions of law. (Rule 77.4.)

**PAGE LIMIT:** Comments **shall be limited to 3 pages**. (Rules 63 and 87.)

**MORE INFORMATION:** Those parties wishing more information on document format, filing, service, and comments should refer to Articles 2, 19 and 23 of the Commission's Rules of Practice & Procedure (Rules 2 through 3.2; Rules 77 through 77.9; Rule 88). The Rules may be accessed on the Commission's web page at:

[http://www.cpuc.ca.gov/PUBLISHED/RULES\\_PRAC\\_PROC/8508.htm](http://www.cpuc.ca.gov/PUBLISHED/RULES_PRAC_PROC/8508.htm)

Parties may also review the document "Docket Office Filing FAQ" by obtaining a copy from the Commission's Docket Office, or on the Commission's web page at:

<http://www.cpuc.ca.gov/PUBLISHED/REPORT/1242.htm>

**PUBLIC ADVISOR'S OFFICE:** If you need additional procedural assistance, contact the Public Advisor in either San Francisco or Los Angeles:

San Francisco:

Public Advisor  
505 Van Ness Avenue, Room 5303  
San Francisco, CA 94102  
(415) 703-2074  
[Public.Advisor@cpuc.ca.gov](mailto:Public.Advisor@cpuc.ca.gov)

Los Angeles:

Public Advisor  
320 West Fourth Street, Suite 500  
Los Angeles, CA 90013  
(213) 576-7055  
[Public.Advisor.LA@cpuc.ca.gov](mailto:Public.Advisor.LA@cpuc.ca.gov)

**SAMPLE FORMAT FOR COMMENTS**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002  
(Filed October 5, 2000)

Category M

**Comments Of \_\_\_\_\_ [Name of Party Submitting Comments]  
On Draft Decision Of Assigned Commissioner Wood Modifying  
Decision 01-09-020 to Add One Customer to Category M**

- 1. Introduction:** [Insert text here]
- 2. Comments:** [Insert text here]
- 3. Conclusion:** [Insert text here]

Respectfully Submitted,

\_\_\_\_\_  
(Signature)

Name, Title, Address, Telephone Number,  
and E-mail address of Party or  
Representative of Party

**SAMPLE  
CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “Comments Of \_\_\_\_ [Name of Party Submitting Comments] On Draft Decision Of Assigned Commissioner Wood Modifying Decision 01-09-020 to Add One Customer to Category M” on specific persons as required by Commission instructions in R.00-10-002 by \_\_\_\_ [here describe manner of service, *e.g.*, mailing a properly addressed copy by first-class mail with postage prepaid, mailing a properly addressed copy by overnight express mail with postage prepaid, sending an electronic mail copy].

[On the original also state]: Those persons served by mail sent to California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94012 are:

Commissioner Wood, Room 5200  
ALJ Mattson, Room 5104  
ALJ Galvin, Room 5015  
Jonathan Lakritz, Room 5202  
Laura Martin, Room 4-A.

Those persons served by e-mail are:

ALJ Mattson at [bwm@cpuc.ca.gov](mailto:bwm@cpuc.ca.gov)  
ALJ Galvin at [mfg@cpuc.ca.gov](mailto:mfg@cpuc.ca.gov)  
Jonathan Lakritz at [jol@cpuc.ca.gov](mailto:jol@cpuc.ca.gov)  
Laura Martin at [lra@cpuc.ca.gov](mailto:lra@cpuc.ca.gov)

Executed on \_\_\_\_ [date] at \_\_\_\_ [location], California.

\_\_\_\_\_  
[signature]

John Jones

Decision **DRAFT DECISION OF COMMISSIONER WOOD**  
(Mailed 11/20/01)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002  
(Filed October 5, 2000)

Category M

**OPINION MODIFYING DECISION 01-09-020  
TO ADD ONE CUSTOMER TO CATEGORY M**

Decision (D.) 01-09-020 grants Category M status to 404 customers. For the reasons explained in that decision, incomplete applications were not considered. (See D.01-09-020 at mimeo. page 21.) Staff has now found an additional complete and timely application from one customer (referred to herein as applicant) which was previously believed to be incomplete. This decision grants Category M status to this customer.

**1. Discussion**

Staff reports that applicant's risk index score qualifies applicant for Category M status. The score is calculated using the same approach employed for all other applicants, as described in D.01-09-020. That is, the score is based on self-reported answers in the application, and the formula developed by Exponent (the Commission's consultant and advisor on this matter). Staff also applied

Exponent's additional screening criteria, and determined that applicant should not be removed from consideration for Category M based on those criteria.

Staff identifies applicant in the category of "outpatient surgery/dentist." Staff states that correcting the error and granting this one applicant Category M status will not jeopardize the 40% minimum load available for rotating outage criterion, nor will it affect the status of any other applicant.

Based on this information, we conclude that an error was made in the processing of one Category M application, and that the error should be corrected.

## **2. Need for Expedited Consideration**

We balance the public interest in quickly modifying D.01-09-020 to correct a processing error in one application against the public interest in having a full 30-day comment cycle on the proposed modification. (Rule 77.7(f)(9) of the Commission's Rules of Practice and Procedure.) We conclude that the former outweighs the latter. Absent a reduction in the comment cycle on this proposed modification, applicant would potentially be exposed to rotating outages, should any occur, and significant harm to public health or welfare could result. We seek valuable public review of, and comment on, our proposed change, and find that a reduced period balances the need for that input with the need for timely action.

## **3. Comments on Draft Decision**

On November 20, 2001, the draft decision of Presiding Officer and Assigned Commissioner Wood on this matter was served on, or notice of the draft decision was provided to, parties in accordance with Section 1708 of the Public Utilities Code, and Rule 77.7. The draft decision was served by electronic mail on parties with electronic mail addresses. The draft decision was also published on the Commission's web page, and notice of the draft decision appeared in the Commission's Daily Calendar.

Comments were filed and served on \_\_\_\_\_ by \_\_\_\_\_. Reply comments were not permitted.

**Findings of Fact**

1. One timely and complete application was incorrectly processed.
2. Applicant's risk index score qualifies applicant for Category M status, with no screening criterion resulting in removal of applicant from consideration.
3. The inclusion of applicant in Category M will neither jeopardize the 40% minimum load criterion, nor the status of any other Category M customer.

**Conclusions of Law**

1. D.01-09-020 should be modified to grant applicant Category M status.
2. The period for public review and comment on the draft decision should be reduced, pursuant to Rule 77.7(f)(9).
3. This order should be effective today so that Category M status may be provided to applicant, and public health and welfare preserved, without delay.

**O R D E R****IT IS ORDERED** that:

1. Decision 01-09-020 is modified as follows:
  - a. The first full sentence in Section 1, paragraph 4, is changed to read: "We find 405 customers eligible for Category M." Footnote 1 is unchanged.
  - b. Section 12 is added at mimeo., page 32 as follows:

"12. Correction  
After the release of D.01-09-020, one additional timely and complete application was discovered. Using the same approach that was used for all other applicants, applicant's risk index score qualifies applicant for Category M status,



with none of the screening criteria resulting in removal of applicant from consideration for Category M. Inclusion of applicant in Category M will neither jeopardize the 40% minimum load available for rotating outage criterion, nor affect the status of any other applicant. We modify Attachment B accordingly.”

c. Findings of Fact 44 and 45 are added:

“44. One applicant whose application was initially believed to be incomplete was complete as of the June 4, 2001 deadline.”

“45. This one applicant’s risk index score qualifies applicant for Category M, applicant is not removed from consideration based on screening criteria used for all similar applicants, and inclusion of this applicant in Category M neither jeopardizes the 40% minimum load criterion, nor affects the status of any other applicant.”

d. Conclusion of Law 34 is added:

“23. The one applicant whose application was believed to be incomplete, but which was actually complete by the June 4, 2001 deadline, should be granted Category M status.”

e. Attachment B is modified to add after line number 404:

Line No.	FW	Application No.	Company Name	Utility	Business	Statement of Authenticity Yes/No
405		None	David L. Dains, DDS	SCE	Outpatient Surgery/Dentist	Yes

2. This proceeding remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## CERTIFICATE OF SERVICE

I certify that I have this day served by mail a true copy of the original attached Draft Decision of Commissioner Wood Modifying Decision 01-09-020 to Add One Customer to Category M on Southern California Edison Company and David L. Dains, and I have electronically mailed a true copy of the above document to all parties of record in this proceeding or their attorneys of record.

Dated November 20, 2001, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.